

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

ELIZABETH CHAN, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, *et al.*,

Defendants.

No. 23 Civ. 10365 (LJL)

**THE FEDERAL DEFENDANTS' NOTICE OF LODGING THE CERTIFIED LIST OF
THE ADMINISTRATIVE RECORD CONTENTS**

Pursuant to this Court's February 20, 2024 Order (ECF No. 31), the Federal Defendants¹ hereby provide notice of the certification of the Administrative Record for the Federal Defendants' issuance of an Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI") for the Manhattan Central Business District Tolling Program ("the Project"). As detailed in the attached declaration and index, the certified list of the Administrative Record contents filed with the Court today reflects those documents considered directly or indirectly by the Federal Defendants in connection with their review of the Project under the National Environmental Policy Act, and constitutes the record for the FONSI signed on June 23, 2023. The record does not include deliberative materials. *See Comprehensive Cmty. Dev. Corp. v. Sebelius*, 890 F. Supp. 2d 305, 308-09 (S.D.N.Y. 2012) (articulating standard governing scope of the

¹ For purposes of this notice, the Federal Defendants are the U.S. Department of Transportation ("DOT"), the Federal Highway Administration ("FHWA"), Shailen Bhatt, in his official capacity as Administrator of FHWA, and Richard J. Marquis, in his official capacity as Division Administrator of the New York Division of FHWA.

administrative record); *id.* at 312 (recognizing that “deliberative materials antecedent to the agency’s decision fall outside the administrative record”).

The documents listed above will be served electronically on Plaintiffs and Defendants’ counsel through the CM/ECF system. In addition, the Federal Defendants will share copies of the record with counsel for Plaintiffs and Defendants through a file transfer site.

Finally, and pursuant to this Court’s February 23, 2024 Order (ECF No. 38), the Federal Defendants are delivering to the Court two flash drives that contain electronic versions of the documents in the Administrative Record and a hyperlinked index to the record. Defendants intend one copy of the flash drive set for the Clerk of Court’s Office and one copy for the Chambers of United States District Judge Lewis J. Liman.

Respectfully submitted this 27th day of February, 2024,

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